



MEMORANDUM

Date: May 11, 2011
To: Building, Engineering and Planning Divisions
From: Kernen Lien, Associate Planner *Kernen*
Subject: New Guidance from Ecology on SEPA Exemptions

At the recent Planning Law Conference in Bellevue, the Department of Ecology presented guidance on how to apply the categorical exemptions contained within WAC 197-11-800. After seeking clarification from Ecology following the conference, it is clear this new guidance from Ecology will impact when the City of Edmonds requires SEPA review. This memorandum summarizes the guidance from Ecology and how the guidance affects when SEPA will be required for projects within the City of Edmonds.

The main changes for the City of Edmonds will be with single family residences and short plats.

The exemption for residential construction is located within WAC 197-11-800(1) Minor new construction. WAC 197-11-800(1) also includes the exemption thresholds for fill and grade (500 cubic yards) and commercial development (4,000 square feet and 20 parking spaces). Ecology views each project in the exemption list as mutually exclusive because of language contained in the preamble to the exemptions in this subsection which state:

*The exemptions in this subsection apply to **all licenses** required to undertake **the construction in question**, except when a rezone or any license governing emissions to the air or discharges to water is required.*

In the past, when a single family residence included fill or grade that exceeded 500 cubic yards the City would require SEPA review. With the new guidance from Ecology, this type of project will be exempt from SEPA. The “*construction in question*” is the single family residence and the grading is part of “*all licenses*” required to construct the single family residence. The same logic applies to new commercial development. For example, a new commercial development of 3,500 square feet with 15 parking spaces would be exempt from SEPA even if grading for the project exceeded 500 cubic yards. However, a new commercial development of 3,500 square feet and 21 parking spaces would require SEPA because the parking space threshold is exceeded.

The exemption for short plats is contained within WAC 197-11-800(6) Minor land use decisions and states:

Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection.

Here the guidance from Ecology depends on the subdivision review process used by individual jurisdictions. In Edmonds, the improvements required by preliminary approval do not require a separate permit for the activity to be carried out. For example, applicants do not have to seek a separate grading permit to construct the access roads or install the utilities. Since the City does not require any other permits to install the subdivision improvements for a short plat, short plats will be exempt from SEPA review even if grading for the improvements exceeded 500 cubic yards. If Edmonds required a separate permit to install improvements required by a short plat, SEPA may be required if the other permit exceeded one of the exemption thresholds in WAC 197-11-800. Another qualifier in this exemption is “*upon lands covered by water*”. If a property proposed for a short plat contained a creek, SEPA would be required because the property has “*lands covered by water*”.

In short, based on guidance from the Department of Ecology, Edmonds will not be requiring SEPA review for new residential construction of four dwelling units or less or for new short plats even if grading exceeds 500 cubic yards.

Please come see me if you have any questions regarding when SEPA is required for projects.